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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,944	03/05/2002	Todor J. Fay	MS1-783US	7396

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

EXAMINER	
FLETCHER, MARLON T	
ART UNIT	**PAPER NUMBER**
2837	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/092,944	FAY ET AL.	
	Examiner	Art Unit	
	Marlon T. Fletcher	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-58* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-58 rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. (6,225,546) in view of Naples et al. (2002/0144587).

Kraft et al. disclose an audio generation system, method, and computer readable media,comprising: an audio processing omponent (214) configured to generate an audio rendition corresponding to audio wave data; audio wave track components (300) configured to generate playback instructions that are routed to the audio processing component to initiate the audio rendition being generated', and a segment component (206) configured to play one or more of the audio wave to track components to generate the playback instructions.

Kraft et al. disclose an audio generation system, method, and computer readable media, comprising: MIDI track components (304) configured to generpte event instructions that are routed to the audio processing component to initiate a second audio rendition corresponding to MIDI audio data, and wherein the segment component is further configured to play one or more of the MIDI track components to generate the event instructions.

Kraft et al. disclose an audio generation system, method, and computer

readable media, comprising: a segment state that includes programming references to each of the audio wave track components, the segment state configured to initiate that one or more of the audio wave track components generate the playback instructions (column 4, lines 31-51).

Kraft et al. disclose an audio generation system, method, and computer readable media, comprising: one or more segment states that include programming references to each of the audio wave track components, the one or more segment states configured to a initiate that one or more of the audio wave track components generate the playback instructions such that the audio processing component generates one or more audio renditions corresponding to the audio wave data (column 4, line 51 through column 5, line 10) .

Kraft et al. disclose an audio generation system, method, and computer readable media, comprising: a performance manager that includes one or more segment states, each segment to state including programming references to each of the audio wave track components, and each segment state configured to initiate that one or more of the audio wave track components generate the playback instructions (figure 2).

Kraft et al. disclose an audio generation system, method, and computer readable media, comprising: one or more performance managers that each indude a segment state having programming references to each of the audio wave track components, the segment state configured to initiate that one or more of the audio wave track components generate the playback instructions (column 5, line 41 through column 6, line 13).

Kraft et al. disclose an audio generation system, method, and computer readable media, wherein the audio processing component is a synthesizer component configured to receive the audio wave data from one or more audio wave data sources, and is further configured to a generate the audio rendition in response to the playback instructions (column 5, line 62 through cglumn 6, line 4).

Kraft et al. disclose an audio generation system, method, and computer readable media, comprising: at least a second audio processing component (216) configured to receive the playback instructions from the one or more audio wave track components, the second audio processing component further configured to generate a second audio rendition to corresponding to the audio wave data.

Kraft et al. disclose an audio generation system, method, and computer readable media, wherein the audio wave track components are further configured to maintain the audio wave data as an embedded audio wave data source (MIDI).

Kraft et al. disclose an audio generation system, method, and computer readable media, wherein the segment component is further configured to maintain the audio wave data as an embedded audio wave data source (MIDI).

Kraft et al. disclose an audio generation system, method, and computer readable media, wherein the audio wave track components are fudher configured to randomly select a variation of the audio wave data such that the segment component plays the one or more audio wave track components that correspond to the variation selection (column 7, line 53 through column 9, line 15).

Kraft et al. disclose an audio generation system, method, and computer readable

media, wherein the audio wave track components include programming references to variations of the audio wave data, and wherein the audio wave track components are further configured to randomly select a variation of the audio wave data such that the segment component plays the one or more audio wave track components that correspond to the variation (column 7, line 53 through column 9, line 15).

Kraft et al. disclose an audio generation system, method, and computer readable media, wherein the audio wave track components generate the playback instructions to include one or more of the following: one or more programming references to the audio wave data; a start time to initiate the audio rendition being generated; a volume parameter that is a decibel gain applied to the audio wave data; a pitch parameter that identifies an amount that the audio wave data is to be transposed', a variation parameter that identifies whether the audio wave data to corresponding to a particular audio wave track component is to be played; a duration parameter that identifies how long audio wave data corresponding to a particular audio wave track component will be played', and is a stop play parameter that stops the audio rendition from being generated (discussed in column 5, lines 40-55 and column 8, lines 1-37).

While it is apparent that Kraft et al. provide playback, the instructions are not clearly disclose, although inherent. Kraft et al. do not provide a multiple audio wave sources.

However, Naples et al. provide multiple audio wave sources as seen in figure 1 and as discussed on page 1, [0009], wherein the software provides instructions for

processing and playback of audio wave track components (figure 1; page 1, [0009] – [0012]). Naples et al. include MIDI track components (page 2, [0014] and [0017]).

It would have been obvious at the time the invention was made to utilize the teachings of Naples et al. with the teachings of Kraft et al., because Naples et al. provide enhancement to Kraft et al. by clearly providing multiple audio sources as well as playback according to instructions to thereby generate an audio rendition based on the wave track components.

Response to Arguments

3. Applicant's arguments with respect to claims 1-58 have been considered but are moot in view of the new ground(s) of rejection.

The amendments to the claims are met by the newly submitted reference. Applicant's arguments have been considered. While Kraft et al. provided many of the claim limitations, Kraft et al. did not disclose the multiple sources. However, Naples et al. makes up the differences not met by Kraft et al., wherein the reference are both provide audio processing of an audio source. The claims are met by the combination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-w, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MTF
January 8, 2006

MARLON T. FLETCHER
PRIMARY EXAMINER